



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/721,557 | 11/22/2000 | Mark Moriconi | PA1630US | 5061 |

7590 05/26/2006

SHELDON R. MEYERS, ESQ.
FLIESLER DUBB MEYER & LOVEJOY LLP
FOUR EMBARCADERO CENTER
FOURTH FLOOR
SAN FRANCISCO, CA 94111-4156

| |
|----------|
| EXAMINER |
|----------|

PYZOCHA, MICHAEL J

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2137

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/721,557

Applicant(s)

MORICONI ET AL.

Examiner

Michael Pyzocha

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57, 58, 63, 64, 72, 73, 81, 82 and 90-95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 57, 58, 63, 64, 72, 73, 81, 82 and 90-95 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20051228, 20060322.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2137

DETAILED ACTION

1. Claims 57-58, 63-64, 72-73, 81-82 and 90-95 are pending.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/22/2006 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 57, 63, 72, and 81, rejected under 35 U.S.C. 103(a) as being unpatentable over Brownlie et al (US 6202157) in view of Gai et al (US 6167445).

Art Unit: 2137

As per claims 57, 63, 72, and 81, Brownlie et al discloses a policy manager for creating and distributing a security policy which includes a plurality of rules customized to the client and an application guard for managing access to securable components including at least one application as specified by the security policy (see column 4 lines 16-52; column 5 lines 1-5 and column 3 lines 25-34).

Brownlie fails to disclose the specific global and local policies.

However, Gai et al teaches such global and local policies (see column 18 lines 24-35).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Gai et al's teaching of global and local policies in the Brownlie et al system.

Motivation to do so would have been to have a policy for all interfaces and to apply local roles at each interface (see column 18 lines 24-35).

5. Claims 58, 64, 73, and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Brownlie et al and Gai et al system further in view of Luckenbaugh.

Art Unit: 2137

As per claims 58, 64, 73, 82, 90, 92 and 94, the modified Brownlie et al and Gai et al system fails to disclose managing access to functions of applications.

However, Luckenbaugh teaches managing access to portions of applications (see Luckenbaugh column 4 line 58 through column 5 line 5 and the abstract), and Official Notice is taken that at the time of the invention it would have been obvious to one of ordinary skill in the art for to monitor portions of applications and for the portions to be functions.

Motivation to do so would have been to control access to portions of resources capable of running an application (see Luckenbaugh et al column 4 line 58 through column 5 line 5) and that functions are self-contained software routines that perform a specific task.

As per claims 90, 92, and 94 the modified Brownlie et al, Gai et al and Luckenbaugh system discloses the application guard further allows for additional customized code to process and evaluate authorization requests based on the additional customized code (see Luckenbaugh column 8 lines 21-40).

6. Claims 91, 93, and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Brownlie et al, Gai et al and Luckenbaugh system as applied to claims 90, 92, and 94 above, and further in view of Balassanian (US 6324685).

Art Unit: 2137

As claims 91, 93, and 95, the modified Brownlie et al, Gai et al and Luckenbaugh system fails to disclose the use of a global policy specifying access privileges.

However, Balassanian teaches such a global policy (see column 5 lines 54-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Balassanian's global policy as the modified Brownlie et al, Gai et al and Luckenbaugh system's policy.

Motivation to do so would have been that a uniform security policy could be implemented from a single machine (see Balassanian column 5 lines 54-65).

Double Patenting

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Art Unit: 2137

8. Claims 57, 63, 72, and 81 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 11 and 21 of copending Application No. 11/171104. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Response to Arguments

9. Applicant's arguments with respect to claims 57-58, 63-64, 72-73, 81-82 and 90-95 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2137

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER